

sidewalls to flex, thereby absorbing at least a portion of the vibrational energy associated with traversing the surface."¹ Applicant respectfully disagrees.

Before addressing the specifics of the Office Action, applicant briefly summarizes one embodiment of the present application. In that regard, Claim 1 is generally directed to a skate frame that includes a structural member having first and second sidewalls spaced to receive wheels therebetween and vibration dampening means integrally formed with the sidewalls of the structural member. The flexible vibration dampening means includes a contoured portion of each of the first and second sidewalls of the first structural member. The contoured portion includes a predetermined cross-sectional shape to permit the *sidewalls* to flex, thereby absorbing at least a portion of vibrational energy associated with traversing a surface. Applicant respectfully submits that Oyen et al. fail to teach or suggest a skate frame that includes vibration dampening means generally including a contoured portion having a predetermined cross-sectional shape to permit the *sidewalls* of the skate frame to flex, as generally set forth in Claim 1.²

As previously noted Oyen et al. is generally directed to an in-line roller skate that includes a "series of spring plugs or discs 68 which are formed of a suitable compressible material, such as polyurethane, elastomer, or the like." Column 11, lines 47-50. Oyen et al. expressly teach that the purpose of the spring plugs or discs 68 are to "act like compression springs and provide shock absorbing capacity to the wheels when the wheels contact bumps or

¹ Applicant respectfully notes that the Office Action later contradicts this position with respect to the rejections under 35 U.S.C. § 103(a), wherein the Office Action expressly states that "Oyen et al. discloses a vibration dampening means and a skate frame, *but fails to show the vibration dampening means comprises a contoured portion* and the skate frame is an arcuate shape." Final Office Action, page 4, lines 1-3 (emphasis added).

² Applicant respectfully notes that Oyen et al. was published on September 14, 1999, more than a year *after* applicant's filing date of the present application. Accordingly, applicant respectfully submits that Oyen et al. is not prior art under 35 U.S.C. § 102(b), but instead is prior art under 35 U.S.C. § 102(e).

uneven terrain." Column 10, lines 50-53. The degree of elasticity of the discs 68 may be chosen with regard to skate or weight and ability for various road conditions and skating styles. Further, each spring disc 68 includes an opening 70 extending through the spring disc 68. The "sides of this opening 70 can be varied in order to provide increased control over the compressibility of the spring disc 68." Column 12, lines 2-4. Finally, the spring disc 68 are sized to be received within a series of four dumbbell shaped openings 60-66 in the side rail 58.

Thus, Oyen et al. general disclose a skate frame that includes a series of discs seated within corresponding openings formed in the skate frame, wherein the discs act like compression springs and provide shock absorbing capacity to the wheels. This is not the embodiment of Claim 1.

Applicant respectfully notes that Oyen et al. fail to teach or suggest a skate frame that includes flexible vibration dampening means integrally formed with sidewalls of the skate frame, wherein the flexible vibration dampening means includes "a contoured portion of each of the first and second sidewalls of the first structural member, the contoured portion having a predetermined cross-sectional shape to permit the sidewalls to flex," as generally set forth in Claim 1. Instead, Oyen et al. includes a plurality of discs seated within an opening formed in the skate frame to absorb vibrational energy.

Applicant respectfully submits that the embodiment set forth in Claim 1 expressly requires a contoured portion of each of the first and second sidewalls to permit the sidewalls to flex. Oyen et al. merely teach a skate frame having a series of discs, wherein the discs, and not the sidewalls of the skate frame, provide shock absorbing capacity to the wheels. Moreover, applicant respectfully notes that there is no teaching or suggestion within Oyen et al. of flexible vibration dampening means that includes a contoured portion having a "predetermined cross-sectional shape to permit the sidewalls to flex," as generally set forth in Claim 1.

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Accordingly, applicant respectfully submits that Claim 1 is not anticipated nor is it rendered obvious by Oyen et al., whether taken individually or in hypothetical combination with the other references of record.

Rejections under 35 U.S.C. § 103

Claims 2-5 stand rejection under 35 U.S.C. § 103(a) as being unpatentable over Oyen et al. as applied to Claim 1, and further in view of U.S. Patent No. 5,092,614, issued to Malevycz.³ Applicant respectfully disagrees.

As noted above, Oyen et al. failed to teach or suggest a skate frame that includes a flexible vibration dampening means having a contoured portion of each of the first and second sidewalls of the skate frame, wherein the contoured portion includes a predetermined cross-sectional shape to permit the *sidewalls* to flex, as set forth in Claim 1. Instead, Oyen et al. merely teaches a skate frame that includes a series of discs disposed within an opening formed in the sidewall to provide shock absorbing capabilities to the wheels of the skate frame. Thus, Oyen et al. failed to teach or suggest a skate frame that includes flexible vibration dampening means having a contoured portion defining a predetermined cross-sectional shape to permit sidewalls to flex. Malevycz fails to address, and, therefore, cannot overcome the foregoing shortcomings of Oyen et al.

Malevycz teaches a skate frame that includes front and rear mounting surfaces 200, 204, 210, and 214 that *resist side-two-side flexing* of the skate frame. Column 11, lines 30-32 (emphasis added). Additionally, Malevycz *expressly* teaches that the skate frame, which includes the curved portions 130 and 160, provides a more stable structure than prior art because "they *resist lateral twisting and flexing*" better than prior art frames. Column 11, lines 35-39 (emphasis

³ Although the Office Action sets forth a rejection of Claim 2, applicant respectfully traverses this rejection as Claim 2 was canceled in a previous response to an earlier Office Action.

added). Thus, Malevicz teaches an in-line skate frame that includes a curved portion to *resist* flexing. This is not the embodiments of Claims 3-5. Thus, a hypothetical combination of Oyen et al. and Malevicz fails to teach or suggest the embodiments of Claims 3-5.

Allowed Subject Matter

Claims 14-21, 24, 25, 27, and 29-34 were noted as allowed. Applicant thanks the Examiner for this notice of allowed claims.

Allowable Subject Matter

Claims 6-13 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant acknowledges and thanks the Examiner for this notice of allowable subject matter.

CONCLUSION

In light of the foregoing remarks, applicant respectfully submits that the present application is now in condition for allowance. Applicant respectfully requests reconsideration and allowance of all claims. The Examiner is invited to telephone the undersigned attorney if there are any remaining issues.

Respectfully submitted,

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